



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,860	07/28/2003	Joseph S. Bieganeck	249.303	3850

28785 7590 04/25/2006
JOHN R LEY, LCC
5299 DTC BLVD, SUITE 610
GREENWOOD VILLAGE, CO 80111

EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
----------	--------------

3673

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/628,860		BIEGANEK ET AL.	
	Examiner		Art Unit	
	M. Safavi		3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22,24,26,27,29-32,35-37,40-43 and 48-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22,24,26,27,29-32,35-37,40-43 and 48-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet.</u> |

Continuation of Attachment(s) 6). Other: Attached Sheets 1 & 2, (pages 37 & 38), showing respective drawing figures from each of Matsler et al. '352, Johnson '649, Landi et al. '595, and Lonardo '492.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 14, 2005 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 65 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear to have originally presented a cushion having a channel possessing "a V-shaped curvature of increasing transverse width with increasing vertical height".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3673

Claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 appears unclear and confusing with most, if not all, of the claim language reciting a presumed effect or a desired arrangement.

As to article of manufacture, (a cushion):

For example, lines 2-4, 8-22, 28-33, 38-45, 50-56, 64-70, and 75-89 of **claim 53**, (directed to an article of manufacture), appear to recite nothing more than a supposed consequence or a preferred position. Claims 53-69 are replete with language apparently directed to a presumed effect or a desired arrangement. Such language only serves to complicate any effort to garner that which claims 53-69 are attempting to define.

Secondly, claims 53-69 appear to define the “support contour” relative to parts and portions of the cushion. For example, claim 53 beginning at line 8 recites, “the support contour defined relative to a longitudinal midline...”. However, it is not understood how the “support contour” can be defined in terms of parts or portions of the cushion when those parts and portions serve to define the “support contour” as a whole. See, as other examples, passages beginning at each of lines 16, 37, 75, and 76/77. The language within each of these passages appears to then further define some, if not all, of those parts or portions. Such arrangement of language only serves to present a labyrinth of elements and features that does not clearly spell out the invention to be patented.

Line 5 of claim 53 appears to introduce a “rear wall”. However, though claim 53 continues to recite “rear wall”, claim 53 also appears to present a “back wall” as within lines 46, 50, 58, 63, (as examples). Is “back wall” intended to be the same as “rear wall”? Or, does “back wall” define an entirely different element from “rear wall”?

Claims 54, 57, 58 and 64, for example, variously recite, “the lateral posterior buttocks support areas and the proximal thigh support areas...” when there does not appear to be an appropriate antecedent basis for either of the terms “the lateral buttocks support areas” and “the proximal thigh support areas”. This is but one example of where the claim language appears to present multiple names for various parts of the invention. Thus, it is not clear as to what is being defined in each of claims 54, 57, 58, and 64. As another example, **claims 55 and 56** recite “the horizontal extent of the ischial tuberosities relief area” when there does not appear to be an appropriate antecedent basis for the term “the ischial tuberosities relief area”, (thus, no appropriate antecedent for “the horizontal extent of the ischial tuberosities relief area”). **Claim 60** recites “the proximal thigh support areas...” when there does not appear to be an appropriate antecedent basis for the term “the proximal thigh support areas...”. **Claim 61** recites “the locations of the proximal thigh support areas beneath the proximal thigh bones of the person supported by the support cushion” when there does not appear to be an appropriate antecedent basis for the term “the proximal thigh support areas” or “the proximal thigh bones of the person supported by the support cushion”, (thus, no appropriate antecedent for “the locations of the proximal thigh support areas beneath the proximal thigh bones of the person supported by the support cushion”). **Claim 62**,

Art Unit: 3673

as well, appears to present terms that are intended to define what has already been established by other terms. Thus, it is not clear as to what is being defined in each of claims 54-58 and 60-64.

Claim 62 recites, “the elevational support force from the lever-like mechanical advantage of the fulcrum-like interaction of the proximal thigh support areas with the proximal thigh bones of the person when supported by the support contour”. Does claim 62 serve to further limit the invention defined by claim 53? The language of claim 62 appears directed to nothing more than a presumed effect in the course of a desired use. The language of **claim 63** appears incomplete. Otherwise, it is not clear as to what the “support force” achieves. Further, Does claim 63 serve to further limit the invention defined by claim 53? The language of claim 63 appears directed to nothing more than a presumed effect in the course of a desired use.

As to process of making a cushion (recited as “method of configuring an upward facing support contour”):

It is not clear from the language of **claim 22** as to the exact procedural steps necessary to encompass the claimed invention. Claim 22 recites, (as within paragraphs 2-4), “defining relief areas of the support contour at locations adapted to be adjacent to skin covering the ischial tuberosities, the greater trochanters and the coccyx and sacrum of the pelvic area of the person when the person is supported by the support contour” as well as “defining support areas of the support contour at locations adapted to be adjacent to skin covering tissue masses on opposite lateral sides of the posterior buttocks and beneath the proximal thigh bones when the person is supported by the

Art Unit: 3673

support contour” and further recites “positioning the relief areas and the support areas to establish a relatively greater relief clearance at the ischial tuberosities, the greater trochanters and the coccyx and sacrum and to establish a relatively greater support protrusion at the tissue masses on the opposite lateral sides of the posterior buttocks and beneath the proximal thigh bones when the person is supported by the support contour”. First of all, it is not clear as to what procedural steps are being defined by “defining relief areas of the support contour...” or “defining support areas of the support contour...” or “positioning the relief areas and the support areas...” For example, how are the “relief areas” defined? How are the “support areas” defined. How are each of the “relief areas” and “support areas” positioned? Is the term “defining” in each of lines 7 and 11 the same as the term “positioning” in line 15?

Claim 22 goes on to recite “establishing the relatively greater relief clearance of the relief areas and the relatively greater support protrusion of the support areas with respect to an expected representation of the anatomical shape of the pelvic area and the proximal thighs when the person is supported by the support contour” as well as “establishing the relatively greater relief clearance of the relief areas to substantially offload support pressure on the skin adjacent to the ischial tuberosities, the greater trochanters and the coccyx and sacrum when the person is supported by the support contour” as well as “establishing the relatively lesser support protrusion of the support areas to transfer substantially the entire support force for supporting the person on the support contour to the tissue masses at the opposite sides of lateral posterior buttocks and beneath the proximal thigh bone when the person is supported by the support

contour.” It is not clear if the “relatively greater relief clearance” actually forms a part of the claimed invention. In other words, does the “relatively greater relief clearance” form part of the cushion or part of the method of forming the cushion to which claim 22 is directed? It would appear that the language of paragraph 4 of claim 22 already sets forth any establishing of “relatively greater relief clearance”. Therefore it is not clear as to what paragraph 5 of claim 22 sets forth with respect to the method of forming the cushion. It would appear that the language of paragraph 4 of claim 22 already sets forth any establishing of “relatively greater relief clearance”. Therefore it is not clear as to what paragraph 6 of claim 22 sets forth with respect to the method of forming the cushion. Further, it would appear that the language of paragraph 4 of claim 22 already sets forth any establishing of “relatively... [greater] support protrusion”. Therefore it is not clear as to what paragraph 7 of claim 22 sets forth with respect to the method of forming the cushion. Actually, it is not clear as to what paragraph 4 of claim 22 sets forth with respect to the method of forming the cushion. The only positive procedural step in paragraph 4 of claim 22 appears to be “positioning the relief areas and the support areas”. Also, the term ““relatively lesser support protrusion” found in line 31 of claim 22 does not possess an appropriate antecedent within the claim. All in all, it is not clear as to what procedural steps are being defined by the language of claim 22. Claim 22 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or –a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 22 cannot be ascertained.

As to **claim 24**, it would appear that the language of paragraph 4 of claim 22 already sets forth any establishing of “relatively greater relief clearance”. Therefore it is not clear as to what claim 24 sets forth with respect to the method of forming the cushion. Claim 24 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or –a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 24 cannot be ascertained.

Claim 26 appears to recite language directed to a user, (or at least directed to parts of a user), when the language of claim 22, from which claim 26 depends, appears directed to a method of making a cushion. Therefore, it is not understood how “opposite lateral sides of the posterior buttocks” or “the rear of the pelvic area of the person” serves to produce the cushion being manufactured by the method of claim 22. Claim 26 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or –a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 26 cannot be ascertained.

Claim 27 appears to recite language directed to a user, (or at least directed to parts of a user), when the language of claim 22, from which claim 27 depends, appears directed to a method of making a cushion. Therefore, it is not understood how “the proximal thigh bones” or “legs” or “hip joints” or “the skin covering the greater trochanters” serves to produce the cushion being manufactured by the method of claim 22. Claim 27 appears replete with language apparently directed to either of -an intended

relationship between the final product and a potential user- or –a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 27 cannot be ascertained.

Claim 29 appears to recite language directed to a user, (or at least directed to parts of a user), when the language of claim 22, from which claim 29 depends, appears directed to a method of making a cushion. Therefore, it is not understood how “the posterior buttocks” or “the tissue masses on the opposite lateral sides of the posterior buttocks” or “the proximal thigh bones” or “the greater trochanters” or “the thigh bones” or “the legs” or “the hip joints” or “the skin covering the greater trochanters” serves to produce the cushion being manufactured by the method of claim 22. Claim 29 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or –a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 29 cannot be ascertained.

The language of **claim 30** is not clear. It is not understood as to what is being defined by “[a] method as defined in claim 22 applied to configuring a support contour of a seat cushion for wheelchair.” What, specifically, is being defined by “applied to configuring a support contour of a seat cushion for wheelchair.” Is the language of claim 30 directed to an intended environment of use for the article manufactured by the method of claim 22? Otherwise, it is not clear as to the procedural steps that are being defined by claim 30.

The language of **claim 41** is unclear in that it is not understood how “allowing air movement within the support structure through spaces between the adhered-together plastic beads” serves to produce the cushion being manufactured by the method of claim 22. The specification does not appear clear and complete as to “allowing air movement within the support structure through spaces between the adhered-together plastic beads” as a procedural step in the manufacture of a cushion.

Claim 48 appears to recite language directed to a user, (or at least directed to parts of a user), when the language of claim 22, from which claim 48 depends, appears directed to a method of making a cushion. Therefore, it is not understood how “the proximal thigh bones” or “the hip joints” or “the distal legs” or “the posterior buttocks” or “the pelvic area” serves to produce the cushion being manufactured by the method of claim 22. Claim 48 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or -a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 48 cannot be ascertained.

Claim 49 appears to recite language directed to a user, (or at least directed to parts of a user), when the language of claim 22, from which claim 49 depends, appears directed to a method of making a cushion. Therefore, it is not understood how “the pelvic area” or “the hip joints” or “the lateral sides of the posterior buttocks” or “the rear pelvic area” serves to produce the cushion being manufactured by the method of claim 22. And, it is not understood how “applying a forward and the upward component of support force from the support areas” serves to produce the cushion being

Art Unit: 3673

manufactured by the method of claim 22. Claim 49 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or -a presumed effect of the final product upon a potential user-.

Therefore, the metes and bounds of the language of claim 49 cannot be ascertained.

Claim 50 appears to recite language directed to a user, (or at least directed to parts of a user), when the language of claim 22, from which claim 50 depends, appears directed to a method of making a cushion. Therefore, it is not understood how “the opposite lateral sides of the posterior buttocks” or “the proximal thighs” serves to produce the cushion being manufactured by the method of claim 22. And, it is not understood how “applying the upward and forward component of support force from the support areas” serves to produce the cushion being manufactured by the method of claim 22. Claim 50 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or -a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 50 cannot be ascertained.

Claim 75 appears to recite language directed to a user, (or at least directed to parts of a user), when the language of claim 22, from which claim 75 depends, appears directed to a method of making a cushion. Therefore, it is not understood how “the hip joints” or “the distal legs” or “the greater trochanters of the thigh bones” or “the knee joints of the thigh bones” serves to produce the cushion being manufactured by the method of claim 22. And, it is not understood how “establishing a lever-like mechanical advantage” serves to produce the cushion being manufactured by the method of claim

Art Unit: 3673

22. Does “a lever-like mechanical advantage” form part of the cushion manufactured by the method of claim 22? The specification does not appear to present “a lever-like mechanical advantage” as an element of the cushion being manufactured by the method of claim 22. Claim 75 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or –a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 75 cannot be ascertained.

Claim 76 appears to recite language directed to a user, (or at least directed to parts of a user), when the language of claim 22, from which claim 76 depends, appears directed to a method of making a cushion. Therefore, it is not understood how “a perineal area of the person” serves to produce the cushion being manufactured by the method of claim 22. It is not understood how “defining a clearance area of the support structure” serves to produce the cushion being manufactured by the method of claim 22. Does “a clearance area” form part of the cushion manufactured by the method of claim 22? The specification does not appear to present “a clearance area” as an element of the cushion being manufactured by the method of claim 22. And, it is not understood how “using the clearance area adjacent to the perineal area as space for air circulation at the perineal area” serves to produce the cushion being manufactured by the method of claim 22. Claim 76 appears replete with language apparently directed to either of -an intended relationship between the final product and a potential user- or –a presumed effect of the final product upon a potential user-. Therefore, the metes and bounds of the language of claim 76 cannot be ascertained.

As to process of using a cushion, (method of supporting a person? Recited as “method of supporting and relieving pressure”):

It is not clear from the language of **claim 31** as to what is being defined as the invention to be patented. Lines 1-4 of claim 31 recite “[a] method of supporting and relieving pressure on anatomical tissues which surround a skeletal structure of a pelvic area and thigh bones of a person when sitting on and supported by a support contour”. Examiner cannot ascertain just what Applicant is defining with such a preamble. It is noted that the language of claim 31 has been amended from what had been previously addressed, (i.e., a method of method of supporting a person in a sitting position on a support contour), to read as presently set forth. Is claim 31 directed to a “method of supporting”? Is claim 31 directed to a “method of...relieving pressure”? Otherwise, it is not understood as to what a “method of supporting and relieving pressure” defines. How does one support pressure? And, if it is not the pressure that is being supported then it is not clear as to what is being supported within the invention of claim 31?

Further, lines 6-10 and 11-15 of claim 31 do not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “transferring the substantial entirety of support force for supporting the person to skin and tissue masses on opposite lateral sides of the posterior buttocks of the pelvic area and beneath the proximal thigh bones when the person is supported by the support contour” or “substantially offloading pressure and shear force from skin adjacent the ischial tuberosities, the greater trochanters and the coccyx and sacrum of the pelvic

Art Unit: 3673

area when the person is supported by the support contour by transferring the substantial entirety of the support force to the tissue masses at the posterior lateral buttocks and beneath the proximal thigh bones” does not appear to set forth any procedural steps which are performed by person or machine. Rather, the language within lines 6-15 of claim 31 appears directed to a presumed or desired effect.

Therefore, the language of claim 31 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “transforming” performed? How is the so-called step of “substantially offloading” performed? How is the so-called step of “transferring the substantially entirety of the support force” performed? And, lines 3, 9-10, and 13 of claim 31 appear to suggest that there is no method being performed since lines 3, 9-10, and 13 all recite, “when sitting on and supported by a support contour” or “when the person is supported by the support contour”. Therefore, with the recitation at lines 3, 9-10 and 13 claim 31 appears to only set forth a desired method if and when a given circumstance occurs.

The language of **claim 32**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “substantially eliminating support pressure and shear force on the skin surrounding the ischial tuberosities, the greater trochanters in the coccyx and sacrum during an anticipated range of normal forward and backward and side to side movement of the upper torso” does not appear to set forth any procedural steps, which are performed by

Art Unit: 3673

person or machine. Rather, the language within claim 32 appears directed to a presumed or desired effect. Therefore, the language of claim 32 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “substantially eliminating support pressure and shear force” performed? Further, it is not clear as to what is being defined by “during an anticipated range of normal forward and backward and side to side movement of the upper torso”. In other words, what, exactly, is an “anticipated range” and does such range ever occur? And, lines 6-7 of claim 32 appear to suggest that there is no method being performed since lines 6-7 recite, “...of the person when seated on the support contour”. Therefore, with the recitation at lines 6-7, claim 32 appears to only set forth a desired method if and when a given circumstance occurs.

The language of **claim 35**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “inducing an upward component of support force on the tissue masses on the opposite lateral sides of the posterior buttocks of the person” does not appear to set forth any procedural steps that are performed by person or machine. Rather, the language within claim 35 appears directed to a presumed or desired effect. Therefore, the language of claim 35 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “inducing an upward

component of support force” performed? And, lines 4-5 of claim 35 appear to suggest that there is no method being performed since lines 4-5 recite, “...of the person when seated on the support contour”. Therefore, with the recitation at lines 4-5, claim 35 appears to only set forth a desired method if and when a given circumstance occurs.

The language of **claim 36**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “transferring weight from the legs distal to the proximal thighs in a lever-like manner through the thigh bones to the hip joints as support force to elevate the greater trochanters” does not appear to set forth any procedural steps that are performed by person or machine. Rather, the language within claim 36 appears directed to a presumed or desired effect. Therefore, the language of claim 36 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “transferring weight from the legs distal to the proximal thighs in a lever-like manner” performed? And, lines 5-6 of claim 36 appear to suggest that there is no method being performed since lines 5-6 recite, “...of the person when seated on the support contour”. Therefore, with the recitation at lines 5-6, claim 36 appears to only set forth a desired method if and when a given circumstance occurs.

The language of **claim 37** is not clear. It is not understood as to what is being defined by “[a] method as defined in claim 31, applied to supporting a person in a sitting position on the support contour of a wheelchair seat cushion.” What, specifically, is

Art Unit: 3673

being defined by “applied to supporting a person in a sitting position on the support contour of a wheelchair seat cushion.” Is the language of claim 37 directed to an intended environment of use for the process of claim 31? It is otherwise, not understood as to what is being defined by “applied to supporting the person”. Therefore, it is not clear as to what procedural steps are being defined by claim 37.

The language of **claim 42** is not clear. Claim 42 appears to present language to a method of forming a cushion when claim 31 from which claim 42 depends is directed to a “method of supporting and relieving pressure” (method of supporting a person in a sitting position?). How, otherwise, does “incorporating the support contour in a support structure of a cushion; and forming the support structure from a matrix of resilient adhered-together plastic beads” serve to define procedural steps which characterize the process of a “method of supporting and relieving pressure”? The language of claim 42 appears identical to that of claim 40. However, claim 40 is directed to a “method of configuring an upward facing support contour”. It is not seen how the language of claim 42 can serve as defining a procedural step for both a “method of configuring an upward facing support contour” and a “method of supporting and relieving pressure”.

The language of **claim 43** is not clear. Claim 43 appears to present language to a method of forming a cushion when claim 31 from which claim 43 depends is directed to a “method of supporting and relieving pressure” (method of supporting a person in a sitting position?). How, otherwise, does “allowing air movement within the support structure through spaces between the adhered-together plastic beads” serve to define procedural steps which characterize the process of a “method of supporting and

relieving pressure”? The language of claim 43 appears identical to that of claim 41.

However, claim 41 is directed to a “method of configuring an upward facing support contour”. It is not seen how the language of claim 43 can serve as defining a procedural step for both a “method of configuring an upward facing support contour” and a “method of supporting and relieving pressure”.

The language of **claim 51**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “inducing an upward and forward component of support force on the tissue masses on the opposite lateral sides of the posterior buttocks” or “transferring weight from the legs distal to the proximal thighs in a lever-like manner through the thigh bones to the hip joints as support force to elevate the hip joints” or “preventing the pelvic area from tipping backward in response to the elevational support force at the hip joints by applying the upward and forward component of support force on the opposite lateral sides of the posterior buttocks to the rear pelvic area” does not appear to set forth any procedural steps which are performed by person or machine. Rather, the language within lines 3-14 of claim 51 appears directed to a presumed or desired effect.

Therefore, the language of claim 51 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “inducing” performed? How is the so-called step of “transferring weight” performed? How is the so-called step of “preventing the pelvic area from tipping backward”

Art Unit: 3673

performed? How is the so-called step of “applying the upward and forward component of support force” performed? And, lines 5, 8-9, and 13-14 of claim 51 appear to suggest that there is no method being performed since lines 5, 8-9, and 13-14 all recite, “when the person is supported by the support contour”. Therefore, with the recitation at lines 5, 8-9 and 13-14 claim 51 appears to only set forth a desired method if and when a given circumstance occurs.

The language of **claim 52**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “applying the upward and forward component of support force from the support areas on the opposite lateral sides of the posterior buttocks from an uppermost position on the rear pelvic area which is greater in relative height than the support areas at which the weight from the distal legs is transferred in a lever like manner through the thigh leg bones to the hip joints” does not appear to set forth any procedural steps which are performed by person or machine. Rather, the language within claim 52 appears directed to a presumed or desired effect. Therefore, the language of claim 52 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “applying the upward and forward component of support force” performed? How is “the weight [transferred] from the distal legs”?

The language of **claim 70**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving

Art Unit: 3673

pressure”, (method of supporting a person in a sitting position?). The recitation of “inducing an upward and forward component of support force on the tissue masses on the opposite lateral sides of the posterior buttocks” or “transferring weight from the legs distal to the proximal thighs in a lever-like manner through the thigh bones to the hip joints as support force to elevate the hip joints” does not appear to set forth any procedural steps which are performed by person or machine. Rather, the language within lines 2-7 of claim 70 appears directed to a presumed or desired effect. Therefore, the language of claim 70 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “inducing” performed? How is the so-called step of “transferring weight” performed? And, lines 3-4 and 7 of claim 70 appear to suggest that there is no method being performed since lines 3-4 and 7 recite, “when the person is supported by the support contour”. Therefore, with the recitation at lines 3-4 and 7 claim 70 appears to only set forth a desired method if and when a given circumstance occurs.

The language of **claim 71**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “supporting the proximal thigh bones of the person when supported by the support contour to interact in a fulcrum-like manner with the weight of the legs distal to the proximal thighs to create the elevational support force on the hip joints” does not appear to set forth any procedural steps that are performed by person or machine. Rather, the

Art Unit: 3673

language within claim 71 appears directed to a presumed or desired effect. Therefore, the language of claim 71 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “supporting the proximal thigh bones” performed? How is “the elevational support force on the hip joints [created]”? And, lines 2-3 of claim 71 appear to suggest that there is no method being performed since lines 2-3 recite, “...of the person when seated on the support contour”. Therefore, with the recitation at lines 2-3, claim 71 appears to only set forth a desired method if and when a given circumstance occurs.

The language of **claim 72**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “establishing a lever-like mechanical advantage for increasing the amount of elevational support force at the hip joints from the weight of the distal legs by locating the position of support for the proximal thigh bones closer to the greater trochanters of the thigh bones than to the knee joint of the thigh bones” does not appear to set forth any procedural steps which are performed by person or machine. Rather, the language within claim 72 appears directed to a presumed or desired effect. Therefore, the language of claim 72 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “establishing a lever-like mechanical advantage” performed? How is the so-called step of “locating the

position of support for the proximal thigh bones” performed? The latter phrase may be an appropriate procedural step for a method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). However, the specification does not appear clear and complete as to how such a step is performed by a person to achieve the method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?).

The language of **claim 73**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “offloading sufficient pressure and shear force to substantially eliminate pressure and shear force on the skin covering the ischial tuberosities, the greater trochanters in the coccyx and sacrum” does not appear to set forth any procedural steps that are performed by person or machine. Rather, the language within claim 73 appears directed to a presumed or desired effect. Therefore, the language of claim 73 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “offloading sufficient pressure and shear force” performed?

The language of **claim 74**, does not appear to recite any procedural steps which are positively performed to accomplish any method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). The recitation of “establishing a clearance area in the support contour located adjacent to a perineal area of the person” or “using the clearance area adjacent to the perineal area as space for air

circulation at the perineal area” does not appear to set forth any procedural steps that are performed by person or machine. Rather, the language within claim 74 appears directed to a presumed or desired effect. Therefore, the language of claim 74 does not appear to present any procedural steps that go to make up the claimed method of “supporting and relieving pressure”, (method of supporting a person in a sitting position?). For example, how is the so-called step of “establishing a clearance area in the support contour” performed? How is the so-called step of “using the clearance area” performed? It is noted that the language of claim 74 appears to parallel the language of claim 76. If the so-called procedural step of “defining a clearance area of the support structure” serves to define a method of configuring an upward facing support contour then it is not seen how the so-called procedural step of “defining a clearance area of the support structure” would serve to define a method of “method of supporting and relieving pressure”. Likewise, If the so-called procedural step of “using the clearance area adjacent to the perineal area as space for air circulation” serves to define a method of configuring an upward facing support contour then it is not seen how the so-called procedural step of “using the clearance area adjacent to the perineal area as space for air circulation” would serve to define a method of “method of supporting and relieving pressure”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3673

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 are, as best understood, rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,845,352 to Matsler et al.

As for **claim 53**, Matsler et al. discloses, Fig. 1, (see also attached sheet 1), a cushion extending longitudinally from a rear wall to a front edge, the cushion also extending transversely between opposite transverse edges, each transverse edge extending longitudinally between the rear wall and the front edge; a cavity (designated as 'A' on the attached Figure), located adjacent to the rear wall and spaced rearward from the front edge along the longitudinal midline, the cavity located between and spaced transversely inward from the opposite transverse edges, the cavity extending downward to a lower surface; two transverse relief areas, *(just inside of 20a of edge 20 on either side; designated as 'B' on the attached Figure)*, each transverse relief area spaced transversely to the outside of the cavity and transversely to the inside of the opposite transverse edges, each transverse relief area spaced vertically above the lower surface of the cavity; a channel, *(59 shown along 28; designated as 'C' on the attached Figure)*, in the back wall at a location approximately centered transversely about the longitudinal midline, the channel extending generally vertically upward from the lower surface of the cavity, the channel recessed rearward into the back wall relative to the midline contour of the back wall; two rear support areas, *(22 on either side;*

Art Unit: 3673

designated as 'D' on the attached Figure), each rear support area located on the back wall on respectively opposite transverse sides of the longitudinal midline, each rear support area located between the channel and one transverse edge, each rear support area protruding forward relative to the midline contour of the back wall, (midline contour being any contour of the back wall), the rear support areas extending vertically downward and longitudinally forward on the back wall toward the lower surface of the cavity; two forward support areas, (the forward supports areas on either side of the longitudinal midline and forward of the cavity; see also Fig. 5; designated as 'E' on the attached Figure), each forward support area located forward of the cavity and spaced transversely to the inside of the opposite transverse edges, each forward support area located on an opposite lateral side of the longitudinal midline from the other forward support area.

As for **claim 59**, Matsler et al. shows a clearance area, *(that portion extending upwardly and forwardly from the lower surface of the cavity and approximately centered about the longitudinal midline; also including central 59; designated as 'F' on the attached Figure).*

As for **claim 64**, the back wall curves downward and longitudinally forward and transversely inward to the lower surface of the cavity.

As for **claim 65**, the channel has a V-shaped curvature of increasing transverse width with increasing vertical height above the lower surface of the cavity, *(as best understood in the same sense as the channel of the instant disclosure).*

As for **claim 66**, the rear wall extends from one transverse edge of the cushion adjacent to one transverse relief area around the rear of the cavity to the other transverse edge of the cushion adjacent to the other transverse relief area.

The language of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 is replete with desired effect or a presumed consequence of the claimed cushion. As such, Matsler et al. meets the limitations of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 in that the cushion shown by Matsler et al. can present the same effect depending upon how it is utilized, (e.g., size of person, weight of person, how a person specifically sits upon the cushion, etc.).

Claims 53, 59, and 64-68 appear as the only claims positively reciting actual elements of the invention, process of making and process of using notwithstanding. As such, Examiner has addressed the limitations presented in claims 53, 59, and 64-68.

Claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 are, as best understood, rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,617,595 to Landi et al.

As for **claim 53**, Landi et al. discloses, Fig. 17, (see also attached sheet 2), a cushion extending longitudinally from a rear wall to a front edge, the cushion also extending transversely between opposite transverse edges, each transverse edge extending longitudinally between the rear wall and the front edge; a cavity (designated as 'A' on the attached Figure), located adjacent to the rear wall and spaced rearward from the front edge along the longitudinal midline, the cavity located between and

Art Unit: 3673

spaced transversely inward from the opposite transverse edges, the cavity extending downward to a lower surface; two transverse relief areas, (*just inside of edge 250 on either side; designated as 'B' on the attached Figure*), each transverse relief area spaced transversely to the outside of the cavity and transversely to the inside of the opposite transverse edges, each transverse relief area spaced vertically above the lower surface of the cavity; a channel, (*214; designated as 'C' on the attached Figure*), in the back wall at a location approximately centered transversely about the longitudinal midline, the channel extending generally vertically upward from the lower surface of the cavity, the channel recessed rearward into the back wall relative to the midline contour of the back wall; two rear support areas, (*205 on either side; designated as 'D' on the attached Figure*), each rear support area located on the back wall on respectively opposite transverse sides of the longitudinal midline, each rear support area located between the channel and one transverse edge, each rear support area protruding forward relative to the midline contour of the back wall, (*midline contour being any contour of the back wall*), the rear support areas extending vertically downward and longitudinally forward on the back wall toward the lower surface of the cavity; two forward support areas, (*the forward supports areas on either side of the longitudinal midline and forward of the cavity; designated as 'E' on the attached Figure*), each forward support area located forward of the cavity and spaced transversely to the inside of the opposite transverse edges, each forward support area located on an opposite lateral side of the longitudinal midline from the other forward support area.

As for **claim 59**, Landi et al. shows a clearance area, *(that portion extending upwardly and forwardly from the lower surface of the cavity and approximately centered about the longitudinal midline; designated as 'F' on the attached Figure)*.

As for **claim 64**, the back wall curves downward and longitudinally forward and transversely inward to the lower surface of the cavity.

As for **claim 65**, the channel has a V-shaped curvature of increasing transverse width with increasing vertical height above the lower surface of the cavity, *(as best understood in the same sense as the channel of the instant disclosure)*.

As for **claim 66**, the rear wall extends from one transverse edge of the cushion adjacent to one transverse relief area around the rear of the cavity to the other transverse edge of the cushion adjacent to the other transverse relief area.

The language of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 is replete with desired effect or a presumed consequence of the claimed cushion. As such, Landi et al. meets the limitations of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 in that the cushion shown by Landi et al. can present the same effect depending upon how it is utilized, (e.g., size of person, weight of person, how a person specifically sits upon the cushion, etc.).

Claims 53, 59, and 64-68 appear as the only claims positively reciting actual elements of the invention, process of making and process of using notwithstanding. As such, Examiner has addressed the limitations presented in claims 53, 59, and 64-68.

Claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 are, as best understood, rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,503,649 to Johnson.

As for **claim 53**, Johnson discloses, Figs. 1 and 2, (see also attached sheet 1), a cushion extending longitudinally from a rear wall to a front edge, the cushion also extending transversely between opposite transverse edges, each transverse edge extending longitudinally between the rear wall and the front edge; a cavity (designated as 'A' on the attached Figure), located adjacent to the rear wall and spaced rearward from the front edge along the longitudinal midline, the cavity located between and spaced transversely inward from the opposite transverse edges, the cavity extending downward to a lower surface; two transverse relief areas, *(just inside of edge 14, 15 on either side; designated as 'B' on the attached Figure [area of 62, 63 or area of 65, 66])*, each transverse relief area spaced transversely to the outside of the cavity and transversely to the inside of the opposite transverse edges, each transverse relief area spaced vertically above the lower surface of the cavity; a channel, *(within 23; designated as 'C' on the attached Figure)*, in the back wall at a location approximately centered transversely about the longitudinal midline, the channel extending generally vertically upward from the lower surface of the cavity, the channel recessed rearward into the back wall relative to the midline contour of the back wall; two rear support areas, *(on either side of the channel and just below 31, 32; designated as 'D' on the attached Figure)*, each rear support area located on the back wall on respectively opposite transverse sides of the longitudinal midline, each rear support area located

Art Unit: 3673

between the channel and one transverse edge, each rear support area protruding forward relative to the midline contour of the back wall, (*midline contour being any contour of the back wall*), the rear support areas extending vertically downward and longitudinally forward on the back wall toward the lower surface of the cavity; two forward support areas, (*the forward supports areas on either side of the longitudinal midline and forward of the cavity such as upper part of area of 55, 56 or of area 40 on either side; designated as 'E' on the attached Figure*), each forward support area located forward of the cavity and spaced transversely to the inside of the opposite transverse edges, each forward support area located on an opposite lateral side of the longitudinal midline from the other forward support area.

As for **claim 59**, Johnson shows a clearance area, (*that portion extending upwardly and forwardly from the lower surface of the cavity and approximately centered about the longitudinal midline such as of 51 or ascending portion of 55, 55; designated as 'F' on the attached Figure*).

As for **claim 64**, the back wall curves downward and longitudinally forward and transversely inward to the lower surface of the cavity.

As for **claim 65**, the channel has a V-shaped curvature of increasing transverse width with increasing vertical height above the lower surface of the cavity, (*as best understood in the same sense as the channel of the instant disclosure*).

As for **claim 66**, the rear wall extends from one transverse edge of the cushion adjacent to one transverse relief area around the rear of the cavity to the other transverse edge of the cushion adjacent to the other transverse relief area.

The language of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 is replete with desired effect or a presumed consequence of the claimed cushion. As such, Johnson meets the limitations of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 in that the cushion shown by Johnson can present the same effect depending upon how it is utilized, (e.g., size of person, weight of person, how a person specifically sits upon the cushion, etc.).

Claims 53, 59, and 64-68 appear as the only claims positively reciting actual elements of the invention, process of making and process of using notwithstanding. As such, Examiner has addressed the limitations presented in claims 53, 59, and 64-68.

Claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 are, as best understood, rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,912,788 to Lonardo.

As for **claim 53**, Lonardo discloses, Figs. 1 and 2, (see also attached sheet 2), a cushion extending longitudinally from a rear wall to a front edge, the cushion also extending transversely between opposite transverse edges, each transverse edge extending longitudinally between the rear wall and the front edge; a cavity (designated as 'A' on the attached Figure), located adjacent to the rear wall and spaced rearward from the front edge along the longitudinal midline, the cavity located between and spaced transversely inward from the opposite transverse edges, the cavity extending downward to a lower surface; two transverse relief areas, *(just inside of each longitudinal edge on either side; designated as 'B' on the attached Figure)*, each

Art Unit: 3673

transverse relief area spaced transversely to the outside of the cavity and transversely to the inside of the opposite transverse edges, each transverse relief area spaced vertically above the lower surface of the cavity; a channel, *(42; designated as 'C' on the attached Figure)*, in the back wall at a location approximately centered transversely about the longitudinal midline, the channel extending generally vertically upward from the lower surface of the cavity, the channel recessed rearward into the back wall relative to the midline contour of the back wall; two rear support areas, *(on either side; designated as 'D' on the attached Figure)*, each rear support area located on the back wall on respectively opposite transverse sides of the longitudinal midline, each rear support area located between the channel and one transverse edge, each rear support area protruding forward relative to the midline contour of the back wall, *(midline contour being any contour of the back wall)*, the rear support areas extending vertically downward and longitudinally forward on the back wall toward the lower surface of the cavity; two forward support areas, *(the forward supports areas on either side of the longitudinal midline and forward of the cavity; designated as 'E' on the attached Figure)*, each forward support area located forward of the cavity and spaced transversely to the inside of the opposite transverse edges, each forward support area located on an opposite lateral side of the longitudinal midline from the other forward support area.

As for **claim 59**, Lonardo shows a clearance area, *(that portion extending upwardly and forwardly from the lower surface of the cavity and approximately centered about the longitudinal midline; designated as 'F' on the attached Figure)*.

As for **claim 64**, the back wall curves downward and longitudinally forward and transversely inward to the lower surface of the cavity.

As for **claim 65**, the channel has a V-shaped curvature of increasing transverse width with increasing vertical height above the lower surface of the cavity, (*as best understood in the same sense as the channel of the instant disclosure*).

As for **claim 66**, the rear wall extends from one transverse edge of the cushion adjacent to one transverse relief area around the rear of the cavity to the other transverse edge of the cushion adjacent to the other transverse relief area.

The language of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 is replete with desired effect or a presumed consequence of the claimed cushion. As such, Lonardo meets the limitations of claims 22, 24, 26, 27, 29-32, 35-37, 40-43, and 48-76 in that the cushion shown by Lonardo can present the same effect depending upon how it is utilized, (e.g., size of person, weight of person, how a person specifically sits upon the cushion, etc.).

Claims 53, 59, and 64-68 appear as the only claims positively reciting actual elements of the invention, process of making and process of using notwithstanding. As such, Examiner has addressed the limitations presented in claims 53, 59, and 64-68.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3673

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of Matsler et al. '352, Landi et al. '595, Johnson '649, and Lonardo '788 in view of U.S. Patent Application Publication 2005/0025956 to Bainbridge.

Bainbridge '956 teaches forming support systems, including cushions, of resilient adhered together plastic beads having voids therebetween, lines 13-23 of pp 29 and lines 7-8 of pp146. Therefore, to have formed any of the Matsler et al., Landi et al., Johnson, and Lonardo cushions with a filling of resilient adhered together plastic beads having voids therebetween, thus providing a effective support as deemed necessary, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Bainbridge.

Response to Arguments

Applicants' arguments filed December 14, 2005 have been fully considered but they are not persuasive.

As for Applicants' citation of *In re Gulack*, the instant article of manufacture claims to a cushion do not positively recite any portion of the human anatomy and therefore do not recite a "functional relationship" between any portion of the cushion and a part of the human anatomy. Indeed, *In re Gulack* refers to a limitation, which appears positively presented within that claimed invention at issue. In the instant application the claims to a cushion do not recite the human anatomy as being part of the claimed article

Art Unit: 3673

of manufacture. Therefore, the human anatomy “is...not structurally or functionally related with the other limitations of the claim[s]”.

As for Applicants’ assertion that “[t]he present claims define clear structural and functional relationships between the human anatomy with the other features of the claim”, The present claims do not define clear structural and functional relationships between the human anatomy with the other features of the claim since the claims to a cushion do not recite the human anatomy as being part of the claimed article of manufacture.

As for Applicants’ remark to “[t]he defined support areas and the relief areas are adapted to interact with the anatomy as set forth in the claims”, the cushions of the applied prior art can and may interact with the anatomy as set forth in the claims. It is Examiner’s position that the presumed effects and desired arrangement recited in the instant claims can be met by any of the applied prior art particularly since 1) the limitations in question are presumed effect or desired consequence and 2) the cushion shown by each of the applied prior art can present the same effect depending upon how it is utilized, (e.g., size and shape of person, weight of person, how a person specifically sits upon the cushion, etc.).

With regard to claims 22, 24, 26, 27, 29, 30, 40, 41, 48-50, 75, and 76, directed to process of making a cushion (recited as “method of configuring an upward facing support contour”), as with the article of manufacture claims the applied prior art serves to read upon claims 22, 24, 26, 27, 29, 30, 40, 41, 48-50, 75, and 76 as they do not positively present any portion of the human anatomy as forming any part of the claimed

Art Unit: 3673

process of making a cushion. The language of claims 22, 24, 26, 27, 29, 30, 40, 41, 48-50, 75, and 76 is replete with language directed to desired effect or a presumed consequence of the claimed cushion. The cushion shown by each of the applied prior art can present the same effect depending upon how it is utilized, (e.g., size and shape of person, weight of person, how a person specifically sits upon the cushion, etc.).

With regard to claims 31, 32, 35-37, 42, 43, 51, 52, and 70-74, directed to process of using a cushion (recited as "method of supporting and relieving pressure"), though a claim to process of using may include a human anatomy the instant claims to the process of using a cushion do not appear to clearly recite the relationship between the human anatomy and the cushion. The language of claims 31, 32, 35-37, 42, 43, 51, 52, and 70-74 appear more directed to what Applicant presumes would take effect if and when a person were to be supported by the cushion. In other words, no clear and understandable procedural steps are being recited within any of claims 31, 32, 35-37, 42, 43, 51, 52, and 70-74.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

M. Safavi
February 25, 2006

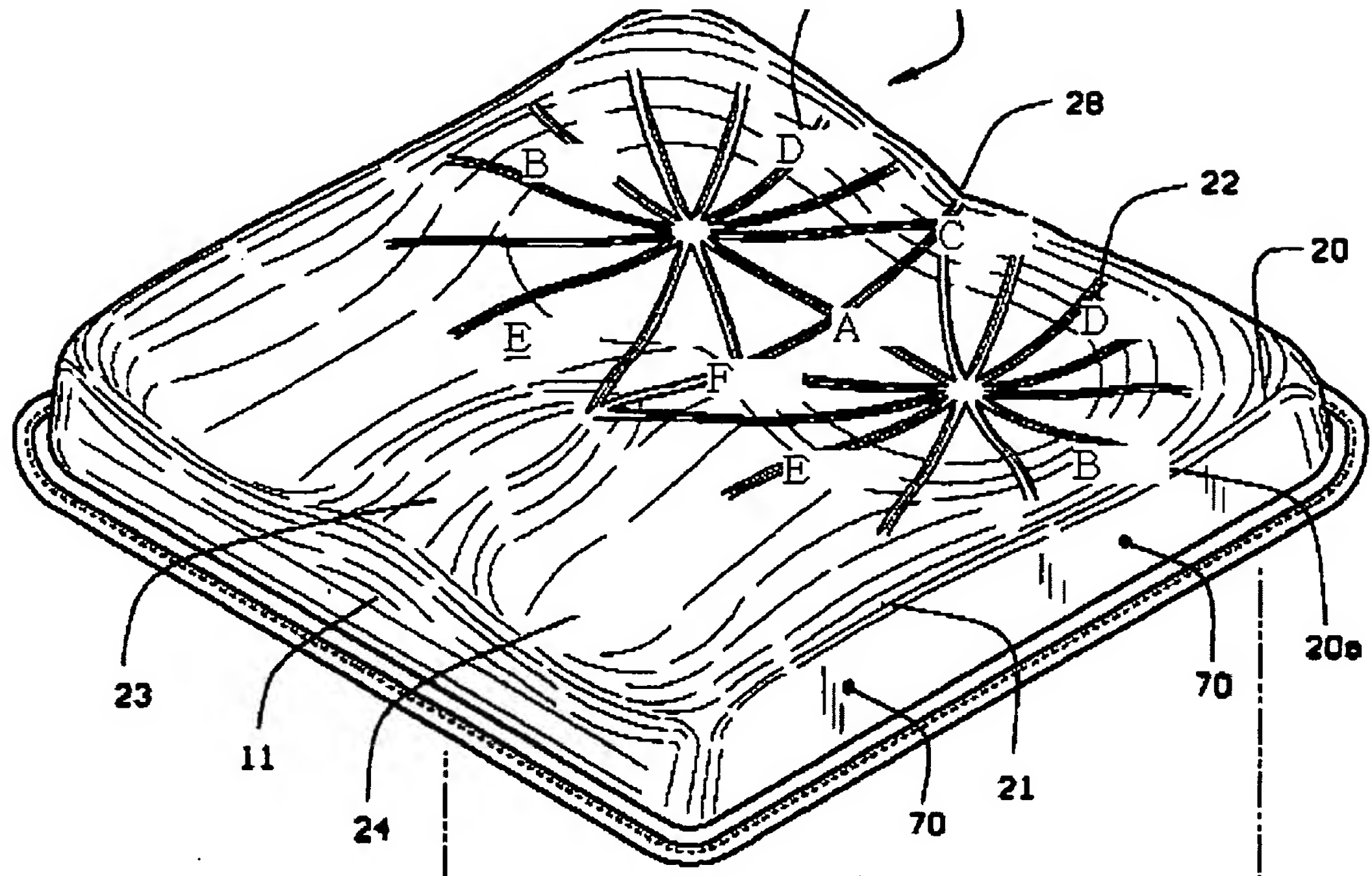


MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354

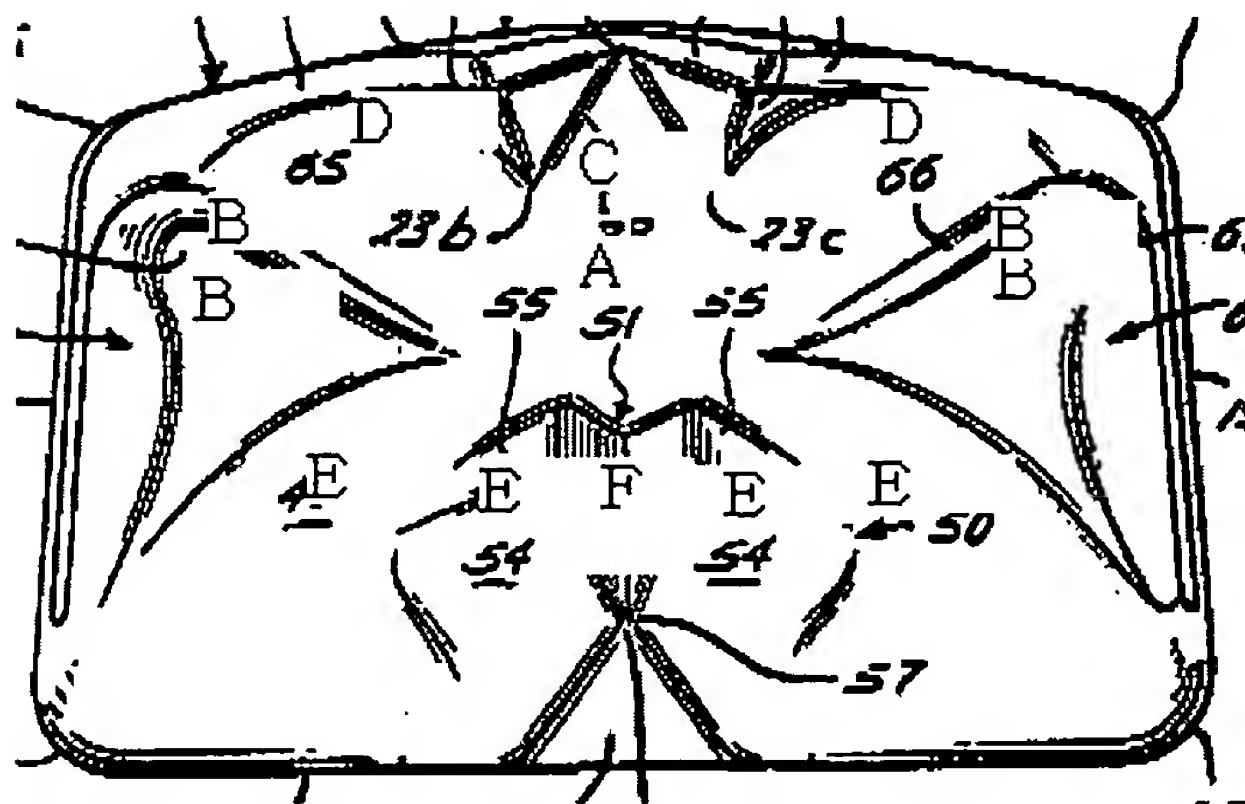
Art Unit: 3673

Attached Sheet 1:

Matsler et al. 5,845,352



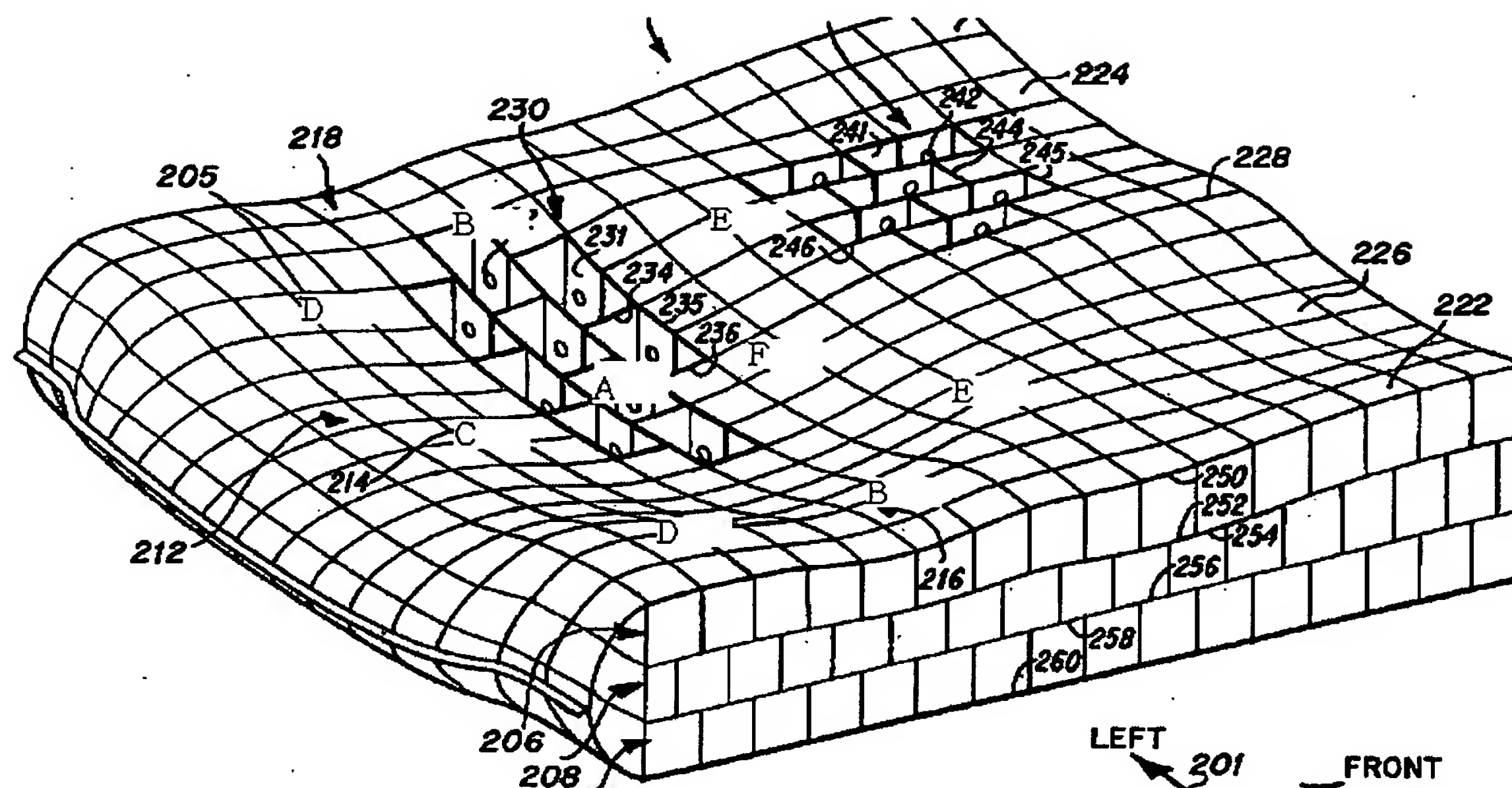
Johnson 3,503,649



Art Unit: 3673

Attached Sheet 2:

Landi et al. 5,617,595



Lonardo '492

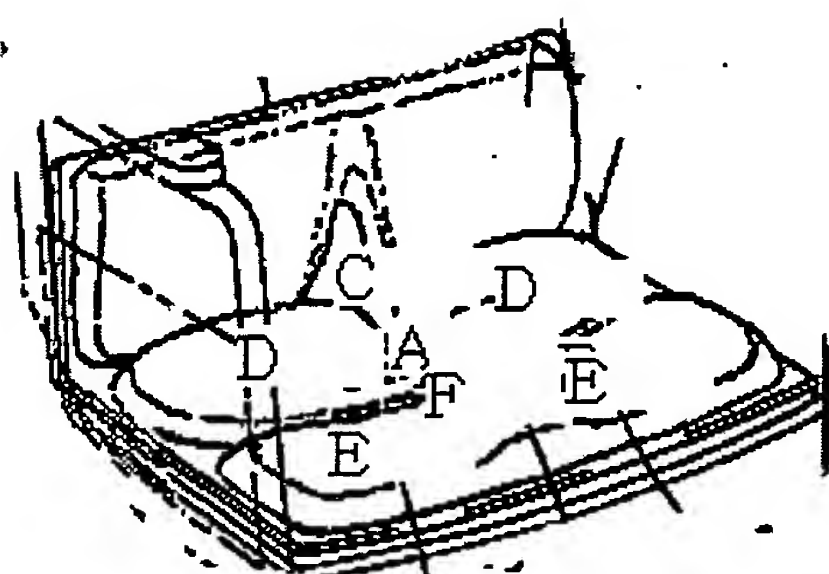


FIG. 1

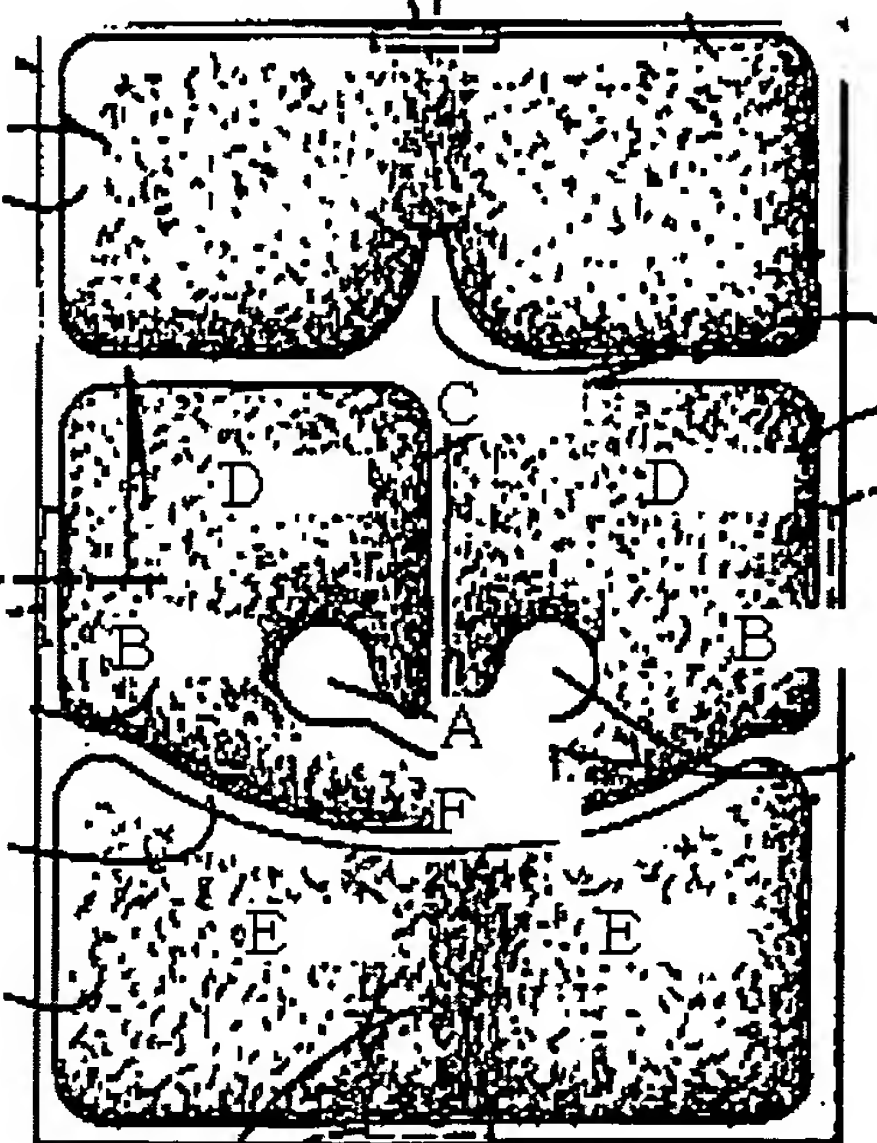


FIG. 2